

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**INFORMATIVE MOTION REGARDING THE DISCLOSURE OF CASH BALANCES
OF PUERTO RICO GOVERNMENT ENTITIES**

To the Honorable United States District Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), through its undersigned counsel, hereby states as follows:

I. Ongoing Evaluation and Disclosure of Government’s Cash Position

1. In furtherance of Governor Ricardo Rosselló’s ongoing policy of transparency in financial reporting, AAFAF and its advisors, in consultation with the Financial Management and Oversight Board for Puerto Rico (the “Oversight Board”), have been conducting a comprehensive evaluation of the cash balances of the Government of Puerto Rico and all of its instrumentalities,

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

including public corporations and governmental agencies—an exercise which had not, to AAFAF's knowledge, been performed by any previous administration.

2. On December 18, 2017, AAFAF disclosed the preliminary results of this evaluation by posting the PowerPoint presentation, attached hereto as **Exhibit A** (the "Initial Report"), on the Electronic Municipal Market Access system.

3. Preparation of the Initial Report required, among other things: (i) a review of hundreds of bank accounts; (ii) frequent communication with financial and Government agencies to obtain clearance to access account information, (iii) inputting account details into a web-based platform that allows on-demand access to account information, and (iv) periodic reporting of account information to the Oversight Board and their advisors.

4. AAFAF has established a prospective five-step independent accounting process to determine and assess the nature (*e.g.*, restricted or not) and cash balances of all active and non-active bank accounts. In order to achieve a comprehensive model of the Government's cash position, that five-step independent review process (the "Independent Review Process") is as follows:

- Step 1: Determine, validate and reconcile all bank accounts;
- Step 2: Engage an independent firm to conduct an evaluation of the cash inflows and outflows into all governmental bank accounts;
- Step 3: Review the results of the independent evaluation to confirm legal restrictions relative to funds deposited into the bank accounts for each governmental entity;
- Step 4: If excess unrestricted cash exists in bank accounts of the major component units, determine if such unrestricted cash exceeds necessary operating expenses; and
- Step 5: Establish a process to access excess unrestricted cash as may be appropriate.

5. Based upon the response by and disclosure from certain financial institutions and governmental agencies, AAFAF believes that it has completed Step 1 of the Independent Review Process. In the event additional accounts are brought to AAFAF's attention, such accounts will be subject to review and completion of the foregoing Step 1 process.

II. Overview of the Initial Report

6. The Initial Report disclosed that the bank account balances for Puerto Rico Government entities as aggregated is approximately \$6.875 billion. However, it is important to understand and put in proper context the Initial Report. The Initial Report's disclosed aggregated cash balance reflects a preliminary analysis of hundreds of bank accounts of the Central Government and other Government instrumentalities.² It does not necessarily provide an accurate picture of governmental liquidity for unrestricted general use. Indeed, both restricted and unrestricted cash accounts as encompassed in the Initial Report indicates that a significant portion of the funds either have or will likely have limitations and restrictions on use (including various accounts containing federal funds designated by law solely and exclusively for use on specific federal programs). Notwithstanding the foregoing, completion of Independent Review Process Steps 2 and 3 will provide a definitive determination concerning limitations and restrictions on all bank accounts.

7. Prior to completion of the Independent Review Process, any reliance on the Initial Report is misplaced, premature and counterproductive.

² Notably, several of the cash balances reflected in the Initial Report have previously been disclosed by the Government. For example, the \$905 million cash balance held by COFINA reflected in the Initial Report has been disclosed to this Court and cannot be used by the Commonwealth while litigation relating to the priority of claims to these funds is pending.

III. AAFAF Will Continue to Disclose Information Related to the Independent Review Process as it Progresses

8. The Rosselló administration has taken, and will continue to take, unprecedented steps to ensure that the Oversight Board, creditors, and other key stakeholders receive relevant and updated financial information. Consistent with the Independent Review Process, the Government will make periodic public disclosures of the progress and results of that process.

9. AAFAF, in coordination and consultation with the Oversight Board in carrying out the Independent Review Process, also intends to work and cooperate with creditors to provide information underlying the Initial Report and to keep creditors abreast of Independent Review Process developments.

WHEREFORE, AAFAF respectfully submits this Motion for informational purposes only and does not request the Court to enter related relief.

Dated: December 20, 2017
San Juan, Puerto Rico

Respectfully submitted,

/s/ Peter Friedman

John J. Rapisardi
Suzanne Uhland
(Admitted *Pro Hac Vice*)
O'MELVENY & MYERS LLP
7 Times Square
New York, NY 10036
Tel: (212) 326-2000
Fax: (212) 326-2061

Peter Friedman
(Admitted *Pro Hac Vice*)
O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, DC 20006
Tel: (202) 383-5300
Fax: (202) 383-5414

*Attorneys for the Puerto Rico Fiscal Agency
and Financial Advisory Authority*

Respectfully submitted,

/s/ Andrés W. López

Andrés W. López
USDC No. 215311
**THE LAW OFFICES OF
ANDRÉS W. LÓPEZ, P.S.C.**
902 Fernández Juncos Ave.
San Juan, PR 00907
Tel: (787) 294-9508
Fax: (787) 294-9519

*Co-Attorney for the Puerto Rico Fiscal Agency
and Financial Advisory Authority*

Exhibit A



GOVERNMENT OF PUERTO RICO

Puerto Rico Fiscal Agency and Financial
Advisory Authority

Summary of Bank Account Balances for Puerto Rico Governmental Instrumentalities *As of November 30, 2017*

December 18, 2017

Disclaimer

- This presentation was prepared and is being published by the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) as part of the ongoing evaluation of financial matters of the Government of Puerto Rico (the “Government”). The information contained herein provides the cash balances of Government accounts as of the dates indicated but is not intended to provide an analysis of the adequacy of these funds to satisfy the Government’s liquidity needs. Government creditors and other third parties should not rely on this information to make any investment decision regarding securities issued by the Government or any instrumentality thereof.
- The account balances included herein are based on information AAFAF obtained from governmental instrumentalities and financial institutions as of the dates indicated as part of an ongoing review of the bank accounts and balances of the Government and its instrumentalities. AAFAF has not completed the validation of such information, and AAFAF therefore cannot and does not assume any responsibility for the accuracy of such information. AAFAF expects that, as additional information becomes available and the validation process is completed, there could be material changes to the information contained herein.
- The account balances included herein are provided to show the cash position as of a specific date, and this presentation does not purport to provide, nor take into consideration, any changes since such specific dates. Such balances will change materially on a day to day basis based on the financial needs of the Government and its instrumentalities.
- The information contained herein regarding the restricted or unrestricted nature of any cash balance is preliminary and subject to further analysis. None of AAFAF, the Government or any of its instrumentalities undertakes any duty to update the information contained herein.
- The account balances included herein have not been confirmed through an audit conducted in accordance with generally accepted auditing standards, an examination of internal controls or other attestation or review services in accordance with standards established by the American Institute of Certified Public Accountants or any other organization. This document does not constitute an audit of compliance with any other federal law, rule, or regulation. Accordingly, AAFAF does not express an opinion or any other form of assurance on any financial or other information contained herein or the internal controls of the Government and the information contained herein.

Disclaimer (cont'd.)

- The information included herein involves certain uncertainties, estimates and other assumptions. This presentation is not intended to provide any statements or projections regarding the economic and financial condition of the Government and its instrumentalities, which are affected by various complex financial, social, economic, environmental and political factors. Nothing in this document should be considered as an express or implied commitment to do or take, or to refrain from taking, any action by AAFAF, the Government or any instrumentality thereof or an admission of any fact or future event. Nothing in this document shall be considered a solicitation, recommendation or advice to any person to participate, pursue or support a particular course of action or transaction, to purchase or sell any security, or to make any investment decision.
- AAFAF, the Government, and each of their respective officers, directors, employees, agents, attorneys, advisors, members, partners or affiliates (collectively, with AAFAF and the Government, the "Parties") make no representation or warranty, express or implied, to any third party with respect to the information contained herein, and all Parties expressly disclaim any such representations or warranties.
- The Parties do not owe or accept any duty or responsibility to any reader or recipient of this presentation, whether in contract or tort, and shall not be liable for or in respect of any loss, damage (including without limitation consequential damages or lost profits) or expense of whatsoever nature of such third party that may be caused by, or alleged to be caused by, the use of this presentation or that is otherwise consequent upon the gaining of access to this document by such third party.
- By receiving this document, the recipient shall be deemed to have acknowledged and agreed to the terms of these limitations.
- This document may contain capitalized terms that are not defined herein, or may contain terms that are discussed in other documents or that are commonly understood. You should make no assumptions about the meaning of capitalized terms that are not defined.

Executive Summary

- To obtain a comprehensive view of the cash position of the Central Government and its instrumentalities, AAFAF requested lists of government bank accounts and their balances. Requests were sent contemporaneously to governmental instrumentalities, the Office of the Commissioner of Financial Institutions (OCIF), and to commercial banks.
- The information presented herein does not include the bank accounts of municipalities, related entities, and funds.
- Based on the information obtained, AAFAF prepared an inventory of bank accounts across all governmental instrumentalities, including those outside the scope of the fiscal plans submitted to the FOMB.
- The exercise and the inventory described in this presentation had not been conducted by prior administrations.
- AAFAF has obtained information on 800+ bank accounts.
- AAFAF has been conducting the process of obtaining a comprehensive view of the cash position in consultation with the Financial Oversight and Management Board for Puerto Rico ("FOMB") and its advisors, and has been providing periodic reports to the FOMB.
- On October 31, 2017, AAFAF commenced publishing weekly cash flow reports for the TSA on its website and EMMA. AAFAF now intends periodically to report the cash balance positions of the other bank accounts identified as part of this process to provide additional transparency.
- Investors are cautioned, however, that this report is limited to providing the bank account balances as of the dates indicated and does not address the sufficiency of these funds to meet the liquidity needs of the Government and its instrumentalities and/or all of the limitations that may be applicable to the use of these funds.
- AAFAF has designed a five-step process to evaluate the cash position of instrumentalities, as described herein. AAFAF has completed the first step of this process and will continue with the other steps to arrive at a comprehensive model of cash position across instrumentalities.

5-Step Process to Evaluate the Government's Cash Position

Step	Overview
1. Procure and validate complete set of bank accounts	<ul style="list-style-type: none">▪ AAFAF sent requests to banks and agencies to provide inventory of bank accounts.▪ Programmed list of bank accounts into online Web Cash platform, allowing for on-demand access to bank account detail.
2. Conduct an independent evaluation of the source of funds in non-TSA bank accounts	<ul style="list-style-type: none">▪ Engage an independent firm to conduct an evaluation of the cash inflows and outflows into all governmental bank accounts.
3. Perform a legal analysis to determine the restricted or unrestricted nature of funds at non-TSA bank accounts	<ul style="list-style-type: none">▪ Legal review of the results of the independent evaluation to confirm legal restrictions relative to funds deposited into the bank accounts.
4. Determine potential excess cash available in non-TSA governmental bank accounts, if any	<ul style="list-style-type: none">▪ Determine operating cash needs at major component units.▪ Assess reliance on appropriations from the TSA.▪ Determine excess cash available across the bank accounts, if any.
5. Evaluate and establish path to legally accessing excess cash at non-TSA instrumentalities, if any	<ul style="list-style-type: none">▪ Establish legal mechanism and process to access excess cash, if any.

November 30 Balances for Governmental Instrumentalities

<i>Bank Account</i>	<i>Balance as of 11/30</i>	<i>Notes</i>
TSA ¹	\$1,643M	<ul style="list-style-type: none"> The TSA is used for general operational expenses of the central government and includes an operational and legal reserve for emergency liquidity needs and contingencies.
COFINA	\$905M	<ul style="list-style-type: none"> COFINA debt service accounts at BNYM.
Other Restricted Title III Accounts	\$813M	<ul style="list-style-type: none"> Other Commonwealth accounts totaling \$813M consist of funds not currently available as a result of ongoing Title III litigation, \$513M in ERS related accounts, \$154M related to GO Redemption Fund, and \$146M relating to clawbacks.
PREPA ²	\$598M	<ul style="list-style-type: none"> PREPA accounts include operational accounts comprised of General Fund, Working Funds and Revenue Funds (\$339M) and other restricted accounts (\$258M).
PRASA ³	\$340M	<ul style="list-style-type: none"> PRASA accounts include operational accounts and other restricted accounts.
HTA	\$63M	<ul style="list-style-type: none"> HTA accounts comprised of federal, state appropriations, debt related, and other funds.
UPR	\$320M	<ul style="list-style-type: none"> UPR accounts total \$320M, comprised of federal, state appropriations, debt related, and other funds.
Other Puerto Rico Treasury Custody Accounts	\$491M	<ul style="list-style-type: none"> The following funds are under the custody of the Puerto Rico Treasury Department: <ul style="list-style-type: none"> \$285M of pension-related funds, including employee contributions \$118M of lottery-related funds \$59M of TSA-sweep accounts \$29M of other funds
Other Governmental instrumentalities (detail next slide)	\$1,702M	<ul style="list-style-type: none"> 690+ non-TSA accounts at 65+ governmental instrumentalities total \$1,702, which total includes, <i>inter alia</i>, certain restricted accounts, including various accounts with federal funds and funds designated for federal programs.
TOTAL	\$6,875M	

1. TSA balance is \$1,542M as of 12/14/2017.

2. PREPA total balance is approximately \$545M as of 12/08/17.

3. PRASA balance of \$340M is as of 12/01/17. PRASA balance is approximately \$327M as of 12/08/17.

November 30 Balances for Other Governmental Instrumentalities

Entity (\$ in millions)	Balance as of 11/30	Entity (\$ in millions)	Balance as of 11/30
9-1-1 Services Governing Board	\$ 10.7	Infrastructure Financing Authority	\$ 18.4
Administration for Socioeconomic Development of the Family	1.0	Institute of Forensic Sciences	1.8
Agricultural Enterprises Development Administration	57.8	Institute of Puerto Rican Culture	5.1
Authority for the Redevelopment of the land and facilities of the Roosevelt Roads Naval Station	1.4	Institute of Statistics	2.9
Automobile Accident Compensation Administration	109.4	Integrated Transport Authority	8.3
Center for Research, Education and Medical Services for Diabetes	1.1	Land Administration	4.6
Child Support Administration	50.7	Land Authority	11.4
Commonwealth Election Commission	0.1	Martín Peña Canal ENLACE Project Corporation	0.0
Company for the Integral Development of Cantera's Peninsula	1.1	Medical Services Administration	12.8
Comprehensive Cancer Center	26.5	Musical Arts and Stagecraft Corporation	5.4
Conservatory of Music	1.2	National Guard Institutional Trust	3.4
Convention Center District Authority	5.3	Office of Government Ethics	8.0
Culebra Conservation and Development Authority	0.1	Office of Socioeconomic Development	0.4
Department of Consumer Affairs	0.4	Office of the Comptroller	6.7
Department of Correction and Rehabilitation	1.8	Office of the Governor	0.0
Department of Economic Development and Commerce	11.1	Other Unclassified	51.7
Department of Education	0.0	Port of the Americas Authority	0.7
Department of Housing	12.2	Ports Authority	22.1
Department of Labor and Human Resources	60.8	Public Broadcasting Corporation	1.1
Economic Development Bank	40.7	Public Buildings Authority	49.5
Energy Commission	6.1	Public Housing Administration	382.8
Environmental Quality Board	0.0	Puerto Rico and the Caribbean Cardiovascular Center Corporation	11.9
Families and Children Administration	0.6	Puerto Rico Education Council	2.7
Farm Insurance Corporation	9.9	Puerto Rico National Guard	1.7
Financial Oversight Board	16.4	Puerto Rico Police	15.7
Fine Arts Center Corporation	2.9	Puerto Rico Trade and Export Company	12.4
Fiscal Agency and Financial Advisory Authority	36.3	School of Plastic Arts	0.4
Health Insurance Administration	293.4	Solid Waste Authority	1.9
Housing Financing Authority	60.2	State Insurance Fund Corporation	100.5
Industrial Commission	0.0	Teacher's Retirement System	8.8
Industrial Development Company	52.7	Telecommunication's Regulatory Board	4.8
		Tourism Company	72.1
		TOTAL	\$ 1,701.8